

FILED

DEC 22 2010

Harish Chandra

CLERK OF THE
INDIA SUPREME COURT
COURT OF APPEALS
AND TAX COURT

Case No. 75S00-10 12 -MS- 700

The Judge of the Starke Circuit Court, the Honorable Kim Hall, requests, on an emergency basis, the amendment of Local Rules LR75-TR79-7 and LR75-CR13-3, dealing with selection of special judges in civil and criminal cases. Attached to this Order are the amended local rules.

Upon examination of the proposed rule amendments requested by the Starke Circuit Court and being duly advised of the circumstances, this Court finds that an emergency exists and that the proposed rule amendments, LR75-TR79-7 and LR75-CR13-3, substantially comply with the requirements of Ind. Trial Rule 79 and Ind. Criminal Rule 13, and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR75-TR79-7 and LR75-CR13-3 for Starke Circuit Court, set forth as an attachment to this Order, are approved effective January 1, 2011. The Clerk of this Court is directed to forward a copy of this Order to the Hon. Kim Hall, Starke Circuit Court, P.O. Box 395, Knox, IN 46534-1196; to the Clerk of the Starke Circuit Court; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

Judge Hall is directed to provide notice of this Order to the Starke County Bar.

The Clerk of the Starke Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for

examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 22nd day of December, 2010.

RT Shepard
Randall T. Shepard
Chief Justice of Indiana

LR75-TR79-7

SPECIAL JUDGES

1.1 Local Rule. In all civil cases, whenever the Judge of the Starke Circuit Court has a conflict of interest which requires him to recuse himself, the case or matter shall be assigned to the Magistrate of the Starke Circuit Court for all further proceedings. The Magistrate shall accept jurisdiction and shall serve as a Special Judge, unless an objection is filed within seven days after notice has been received by the parties. If the Magistrate is unable to accept the appointment, then a Special Judge shall be assigned pursuant to the procedures of Trial Rule 79. The reassignment of the case shall be entered on the chronological case summary and will not require an oath or special order accepting jurisdiction.

~~Whenever the Judge of the Starke Circuit Court has a conflict of interest which requires him to recuse himself, the case or matter shall be assigned to the Magistrate of the Starke Circuit Court for all further proceedings. The Magistrate shall accept jurisdiction under the provisions of the Amended Local Court Rule for Assignment of Certain Conflict Cases unless disqualified under the Code of Judicial Ethics or excused from service by the Indiana Supreme Court. The reassignment of the case shall be entered on the chronological case summary of the case and will not require an Oath or special Order accepting jurisdiction. The Magistrate shall retain jurisdiction of the case for all future proceedings unless a specific statute or Rule provides to the contrary or the Magistrate is unavailable to by reason of death, sickness, absence or unwillingness to serve.~~

~~If further reassignment or selection of a successor is required, then the case or matter shall be assigned to Senior Judge Marvin D. McLaughlin, Senior Judge Raymond D. Kiekbush, Senior Judge J. Eric Smithburn, Senior Judge Don E. Harner, or Senior Judge Walter Chapala, based upon the respective judge's availability to conduct a hearing or trial scheduled in a manner to promote judicial economy and efficiency.~~

1.2 Pursuant to Trial Rule 76. A motion for a change of Judge shall be granted if filed within the time permitted under the Indiana Rules of Trial Procedure. In accordance with Trial Rule 79, the following procedure for appointment of a Special Judge is adopted:

- (A) The parties may agree, in writing, within seven, (7), days of an order granting a change of venue from judge or recusal, to a particular special judge. If there is no agreement, or that judge fails to accept the appointment, then;
- (B) The parties may agree, in writing, to the appointment of a special judge by the regular judge of the Court where the case is pending. If no agreement, or that judge fails to accept the appointment, then;
 - (1) The regular judge of the Court where the case is pending shall name a panel consisting of the Starke Circuit Court Magistrate, and Senior Judges assigned to the Court Marvin D. McLaughlin, Senior Judge Raymond D. Kiekbush, Senior Judge J. Eric Smithburn, Senior Judge Don E. Harner, or Senior Judge Walter Chapala. If no selection is made under this subsection, or that judge fails to accept the appointment, then;
 - (2) The regular judge of the court where the case is pending shall appoint a special judge, on a rotating basis, from a list of the judges and magistrates in the Circuit and Superior Courts of Pulaski County, Marshall County, LaPorte County, Fulton County or Porter County.

- (C) If a special judge cannot be selected using the procedure set out in subparagraphs A through B, above, then the regular judge of the court where the case is pending shall certify the same to the Indiana Supreme Court for appointment of a special judge.

1.3 Amended Local Court Rule for Assignment of Certain Conflict Cases.

~~This Rule shall apply to the reassignment of cases and the selection of a Judicial Officer where there is an Order of Disqualification or Recusal in order to bring the case to a conclusion in the Starke Circuit Court. As to all criminal and civil cases and matters, whenever the Judge of the Starke Circuit Court has a conflict of interest which requires him to recuse himself, the case or matter shall be assigned to Magistrate Mary DeBoer for all further proceedings. The Clerk, upon recusal by the Starke Circuit Court Judge, shall enter an Order transferring the case to Magistrate Mary DeBoer with an appropriate RJO entry and notify Magistrate Mary DeBoer. Magistrate Mary DeBoer shall accept jurisdiction under the provisions of this Rule unless disqualified under the Code of Judicial Ethics or excused from service by the Indiana Supreme Court. The reassignment of such case shall be entered on the chronological case summary of the case and will not require an Oath or special Order accepting jurisdiction. Magistrate Mary DeBoer shall retain jurisdiction of the case for all future proceedings unless a specific statute or Rule provides to the contrary or the Magistrate is unavailable by reason of death, sickness, absence or unwillingness to serve. If further reassignment or selection of a successor is required, then the case or matter shall be assigned to Senior Judge Marvin D. McLaughlin, Senior Judge Raymond Kiekbush, Senior Judge Eric Smithburn, Senior Judge Don Harner, or Senior Judge Walter Chapala, based upon the respective judge's availability to conduct a hearing or trial scheduled in a manner to promote judicial economy and efficiency.~~

LR75-CR13-3

CASE REASSIGNMENT AND SPECIAL JUDGES

In all criminal cases, whenever the Judge of the Starke Circuit Court grants a change of judge, or disqualifies or recuses himself, then a Special Judge shall be assigned pursuant to the procedure in the Rules of Criminal Procedure 12 and 13. The list of judges in the contiguous counties includes the judges with criminal jurisdiction in La Porte, Porter, Jasper, Pulaski, Fulton, Marshall, and St. Joseph counties, listed as follows:

<u>_____</u>	<u>The Judge of the La Porte Circuit Court</u>
<u>_____</u>	<u>The Judge of the La Porte Superior Court #1</u>
<u>_____</u>	<u>The Judge of the La Porte Superior Court #2</u>
<u>_____</u>	<u>The Judge of the La Porte Superior Court #3</u>
<u>_____</u>	<u>The Judge of the La Porte Superior Court #4</u>
<u>_____</u>	<u>The Judge of the Porter Circuit Court</u>
<u>_____</u>	<u>The Judge of the Porter Superior Court #1</u>
<u>_____</u>	<u>The Judge of the Porter Superior Court #2</u>
<u>_____</u>	<u>The Judge of the Porter Superior Court #3</u>
<u>_____</u>	<u>The Judge of the Porter Superior Court #4</u>
<u>_____</u>	<u>The Judge of the Porter Superior Court #6</u>
<u>_____</u>	<u>The Judge of the Jasper Circuit Court</u>
<u>_____</u>	<u>The Judge of the Jasper Superior Court</u>
<u>_____</u>	<u>The Judge of the Pulaski Circuit Court</u>
<u>_____</u>	<u>The Judge of the Pulaski Superior Court</u>

The Judge of the Fulton Circuit Court
The Judge of the Fulton Superior Court
The Judge of the Marshall Circuit Court
The Judge of the Marshall Superior Court #1
The Judge of the Marshall Superior Court #2
The Judge of the St. Joseph Circuit Court
The Judges of the St. Joseph Superior Court

~~In the event a change of judge is granted or it becomes necessary to assign another judge in any felony or misdemeanor proceeding in the Starke Circuit Court, the case shall be assigned to the Magistrate of the Starke Circuit Court or pursuant to the Local Rule pertaining to Senior Judge Appointments. (See LR75-TR79-7, section 1.1).~~

~~In the event that a change of judge is granted from both the Judge and the Magistrate or it becomes necessary to assign another Judge other than the Judge or Magistrate, then the case or matter shall be assigned to Senior Judge Marvin D. McLaughlin, Senior Judge Raymond D. Kiekbush, Senior Judge J. Eric Smithburn, Senior Judge Don Harner, or Senior Judge Walter Chapala, based upon the respective judge's availability to conduct a hearing or trial in a manner to promote judicial economy and efficiency.~~

In the event that no judge is available for assignment or reassignment of a felony or misdemeanor case, such matter shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstance presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.